

US Appl. No: 10/531,796  
Response to July 11, 2007 Office Action

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REMARKS

Applicants have amended the claims to make specific reference to the bacterial isolates deposited with the American Type Culture Collection. The amendments introduce no new matter.

Claims 11-19 stand rejected under 35 USC 112, second paragraph as being indefinite. More particularly, the Examiner objects to claims 11, 12, 14 and 19 for referring to the claimed strains only by applicants' internal designation numbers. To advance the prosecution of the application, applicants have amended independent claims 10 and 14 to include a reference to the ATCC deposit accession number. The amendment to the claims is believed to obviate the rejection.

Claims 11-19 stand rejected under 35 USC 112, first paragraph for lack of enablement. More particularly, the Examiner contends that practice of the invention requires access to the specific strains referenced in the claims. To advance the prosecution of the application, applicants have amended independent claims 10 and 14 to include a reference to the ATCC deposit accession number of the respective claimed strains. The strains referenced in the amended claims have been deposited with an international depository under the terms of the Budapest Treaty and in accordance with 37 CFR 1.801-1.809. All restrictions imposed by the depositor regarding availability of the deposited material will be irrevocably removed upon issuance of the patent. Transmitted herewith (as Exhibit A) is a copy of the deposit receipts for the record. Accordingly, applicants submit the deposit of the claimed strains fully enables the claimed invention and applicants request the withdrawal of the rejection under 35 USC 112, first paragraph.

Claims 10-19 stand rejected under 35 USC 102, as being anticipated by US Patent 5,478,557 (Nisbet et al.) or alternatively, under 35 USC 103 as being obvious over US Patent 5,478,557 (Nisbet et al.).

The Nisbet reference discloses that probiotic compositions can be used to control *Salmonella* colonization of animals. However, the claims as amended are directed to three specific isolates that applicants have isolated and shown to be effective in controlling *Salmonella* colonization of animals. The Nisbet reference simply fails to provide an enabling disclosure for isolating the specific unique probiotic isolates that applicants have deposited under ATCC Accession Numbers, PTA-5614, PTA-5615 and PTA-5616. Accordingly, the

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novel, deposited probiotic isolates are believed to be non-obvious over the teachings of the Nisbet reference.

The application as amended is believed to be in condition for allowance. Applicants respectfully request the withdrawal of the rejections and allowance of the amended subject matter.

Respectfully submitted,



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